



State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS
(I.A.F.F.), LOCAL 2620

Complainant

v.

DERRY FIRE DEPARTMENT

Respondent

CASE NO. F-0113:18

DECISION NO. 88-80

APPEARANCES

Representing I.A.F.F., Local 2620:

Robert T. Clark, Esq., Counsel

Representing Derry Fire Department:

Gary W. Wulf, Chief Negotiator
James J. Cote, Fire Chief

Also appearing:

Ronald D. Gagnon, Deputy Chief
Harvey D. Cote, Firefighter
Randall N. Chase, Firefighter
Geoffrey Barnett, Firefighter
Ronald O'Keefe, Lieutenant
Mark E. Sheehan, Private

BACKGROUND

On February 10, 1988, Local 2620, IAFF (Union) by its attorney Robert T. Clark, Esq. filed an improper practice charge against Chief James J. Cote and the Derry Fire Department (Dept.) alleging a violation of RSA 273-A:5, I (h), by refusing to process a grievance in accordance with the existing collective bargaining agreement. Specifically, on October 14, 1987 the Union filed a grievance with Chief James Cote on behalf of Mark Sheehan a member of the bargaining unit. Chief Cote refused to hear the grievance on the basis that the grievant had not followed the proper chain of command. The union then forwarded the grievance to Town Administrator who, on or about October 20, 1987, refused to hear the grievance, indicating that it was improperly filed.

As a remedy the Union requested a finding of improper practice and an order to the Town to participate in the grievance procedure as required by Article XIII of the collective bargaining agreement.

Hearing in this matter was held May 31, 1988 at the PELRB office in Concord, New Hampshire.

In opening statements Clark for the Union stated that the case was relatively straight forward and that the Union felt the grievance was properly filed and the Town's refusal to process the grievance was a violation of the agreement.

Wulf for the Town stated the procedure was clear and practice well established. Individuals have a right to grieve and have knowledge of the procedure but in this case Mr. Sheehan did not avail himself of the process.

Witness Geoffrey Barnett, firefighter, testified he was familiar with the contract language that the original grievance was processed with the steward unsatisfactorily (who was not reelected and went to shift commander) and then pursued through the formal complaint stage, Shift Commander, Lt. Raymond, Deputy Chief Ronald Gagnon, to the Chief then the Town Manager. All refused to hear the grievance.

Witness Deputy Chief Ronald Gagnon identified the 1986 grievance of firefighter Sheehan and his involvement in the case, he testified that his letter of October 31, 1986 (Union Exhibit #1) stated the problem was one of employment record and could not be resolved at his level.

Witness Chief James Cote testified that he was aware of Deputy Chief Gagnon's letter in the matter and assumed the process had resolved the issue and that he saw no grievance in '87.

Attorney Clark identified Exhibit F-2 as a letter from Deputy Chief Gagnon to Robert Sheehan dealing with the controversy over the step level and his failure to achieve a merit step because of his failure to achieve certain mandatory training requirements, the basis for the grievance.

There was conflicting testimony regarding the actual compliance with the grievance procedure as to who and when certain action had been taken or discussed, when denial had occurred, and interpretation of certain actions taken. All of which created a doubt as to the precise routine followed in this case on the part of both parties.

In closing Attorney Clark argued that testimony substantiated the steps followed and the Town had failed in its responsibilities.

Wulf's closing for the Town argued that the process had not properly been handled at first (complaint) level of the procedure in '86 and had been dropped as the Union failed to get answers at the proper level of process.

DECISION AND ORDER

After reviewing all the testimony and exhibits the Board finds;

1. No unfair labor practice on the part of the Town of Derry as alleged by IAFF Local 2620.
2. The Board hereby remands the case to the parties for process in strict compliance with the language of the grievance procedure, outlined in the contract agreement by and between Local 2620 IAFF and the Town of Derry, Fire Department.

Signed this 15th day of November, 19 88.


EDWARD J. HASELTINE
Chairman

By unanimous vote. Chairman Edward J. Haseltine presiding. Members Seymour Osman, Richard W. Roulx and James C. Anderson present and voting. Also present, Executive Director, Evelyn C. LeBrun.